

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER A. HENRY, :
: Plaintiff, : 11 Civ. 1273 (PAE) (SLC)
-v- :
: :
C.O. MILLER, C.O. JOSEPH GRASSO, and :
C.O. LORENZO COLANGELO, :
: Defendants. :
X-----

PAUL A. ENGELMAYER, District Judge:

On November 8, 2019, the Court issued an Opinion and Order, Dkt. 173 (“Op.”), adopting the Report and Recommendation, Dkt. 166 (the “Report”), of the Hon. Henry B Pitman, Magistrate Judge and terminating this case. On November 13, 2019, the Court received *pro se* plaintiff Christopher Henry’s letter informing the Court of his new address and purporting to raise objections to the Report. Dkt. 175.

Henry’s objections are untimely. For the avoidance of doubt, however, the Court has reviewed Henry’s objections to the Report.

If a party objecting to a Report and Recommendation simply reiterates its original arguments, a district court will review the Report strictly for clear error. *See Dickerson v. Conway*, No. 08 Civ. 8024 (PAE), 2013 WL 3199094, at *1 (S.D.N.Y. June 25, 2013); *Kozlowski v. Hulihan*, Nos. 09 Civ. 7583, 10 Civ. 0812 (RJH), 2012 WL 383667, at *3 (S.D.N.Y. Feb. 7, 2012). This is so even in the case of a *pro se* plaintiff. *Telfair v. Le Pain Quotidien U.S.*, No. 16 Civ. 5424 (PAE), 2017 WL 1405754, at *1 (S.D.N.Y. Apr. 18, 2017) (citing *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009)).

Further, “[c]ourts generally do not consider new evidence raised in objections to a magistrate judge’s report and recommendation.” *Tavares v. City of New York*, No. 08 Civ. 3782 (PAE), 2011 WL 5877548, at *2 (S.D.N.Y. Nov. 23, 2011) (citation omitted).

Henry’s purported objections simply repeat his argument, which Judge Pitman twice rejected, that defendants provided him with insufficient notice of his deposition. *See Report at 2–3* (considering and rejecting Henry’s argument); Dkt. 164 at 1–2 (same). Thus, even had the objections been timely filed, the Court would have reviewed the Report for clear error. And, there is no clear error on the face of the Report and the record in this case. *See Op.* at 2.

This case remains closed. As the Court explained in its Opinion, Henry’s failure to file timely his objections operates as a waiver of appellate review. *See Op.* at 3; *Cidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

The Clerk of Court is respectfully directed to mail this order to Henry.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: November 14, 2019
New York, New York